

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 20700
Docket Number MW-20687

Francis X. Quinn, Referee

(Brotherhood of Maintenance of Way **Employes**
PARTIES TO DISPUTE: {
(The Akron, Canton & Youngstown Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
that:

(1) The Carrier violated the Agreement when it assigned **Track**
Foreman E. Picklesimer instead of **B&B** Carpenter F. E. Newman to **relieve**
B&B Foreman E. J. Cole from **August 7, 1972 through September 1, 1972.**

(2) The Carrier shall now pay to Claimant F. E. Newman **the**
difference between the **B&B** foreman's rate and the B&B Carpenter's rate
for all time worked by Track Foreman E. Picklesimer as a B&B foreman from
August 7, 1972 through September 1, 1972.

OPINION OF BOARD: The work performed was that of installing switch
plates beneath the rail and securing them to the lat-
eral girders of the bridge to allow safe passage of trains. The claimant
admitted he could not supervise this type of work. The **employe** used to
supervise this work was a qualified foreman, senior in service, with exper-
ience in the work scope.

This Board has long recognized that the determination of fitness
and ability is a prerogative of management and that such a determination
will be sustained unless it appears that the action was arbitrary or cap-
ricious, There is no evidence that the Carrier's action was discriminatory.
Accordingly, the claim must be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record
and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the **Employes** involved in this dispute are
respectively Carrier and **Employes** within the meaning of the Railway Labor
Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction
over the dispute involved herein; and

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That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL **RAILROAD ADJUSTMENT** BOARD
By Order of Third Division

ATTEST: *A.W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 17th day of April 1975.